

# LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

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**DATE: AUGUST 3, 2007**

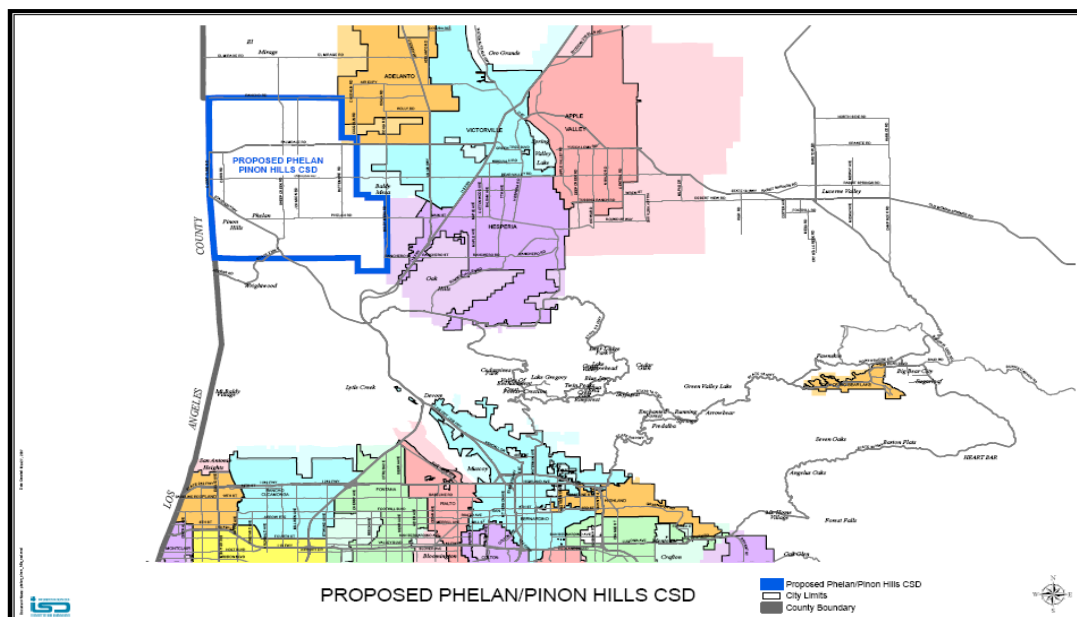
**FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer**

**TO: LOCAL AGENCY FORMATION COMMISSION**

**SUBJECT: Agenda Item #12: LAFCO 3070 – Reorganization to Include Formation of the Phelan Piñon Hills Community Services District, Detachment from County Service Area 56, and Dissolution of County Service Area 9, County Service Area 56 Improvement Zone F-1, and County Service Area 70 Improvement Zones L and P-4**

## INTRODUCTION

The August hearing anticipates commencing the final phase of consideration by the Commission of LAFCO 3070, a proposal to form a Community Services District (hereinafter CSD) for the communities known as Phelan and Piñon Hills. The application encompasses an area of approximately 128 square miles (81,920 acres) located north of the San Bernardino National Forest boundary, east of the Los Angeles County Line, south of the community of El Mirage, and west of the sphere of influence and/or boundary of the Cities of Adelanto, Victorville and Hesperia. The general location of the area proposed to be formed into a new Community Services District is shown below:



The proposal identifies that the new Phelan Piñon Hills CSD shall have the powers for water service, park and recreation and streetlighting. It provides for the assumption of responsibility for providing these services through the actions for either dissolution or detachment of the four existing service providers in the area. Those actions are identified as:

- (a) Dissolution of County Service Area (hereinafter CSA) 9 (for the community of Phelan), which provides for streetlighting and park and recreation services and the transfer of its responsibilities for streetlighting and park and recreation to the new CSD. CSA 9's authorized functions for road service will be abandoned in favor of the existing abilities of CSA 70 to create improvement zones in the area for providing that service and assigning cost through assessments;
- (b) Detachment of CSA 56 from the Piñon Hills community. This action is necessary to clearly define lines of responsibility. However, CSA 56 does not currently provide service to the community of Piñon Hills; the revenues generated from within the Piñon Hills community are currently utilized to fund fire protection and park and recreation services within the Wrightwood community. The funds for fire protection must be reallocated to preserve the funding stream for fire protection (a part of the County Fire Reorganization (LAFCO 3000)) and to sustain the park and recreation services within the Wrightwood community which utilizes these funds. The Commission included a mitigation measure in its environmental determination on May 16, 2007 that requires a transfer of property tax revenues to sustain park functions;
- (c) Dissolution of CSA 56 Improvement Zone F-1 (CSA 56 Zone F-1), which provides fire protection and park and recreation services to the Piñon Hills community, is proposed to be dissolved, but only its park and recreation function, responsibilities, and revenues are to be transferred to the new CSD. Its fire function is also anticipated to be reallocated during the County Fire Reorganization (LAFCO 3000);
- (d) Dissolution of CSA 70 Improvement Zone L (CSA 70 Zone L), which provides for the provision of domestic water service to the bulk of the Phelan and Piñon Hills communities and its responsibilities, obligations, and revenues are to be transferred in their entirety to the new CSD; and,
- (e) LAFCO staff has modified the proposal to include the dissolution of CSA 70 Improvement Zone P-4 (CSA 70 Zone P-4); an entity created in the early 1980's to provide for regional park and recreation services. Funding of CSA 70 Zone P-4 was proposed as a ballot measure, which ultimately failed at election. However, no action was ever taken to clear CSA 70 Zone P-4 as an entity; therefore, in order to clarify park and recreation responsibilities, staff has included this dissolution as a part of the LAFCO 3070 reorganization.

## **PURPOSE OF THIS HEARING**

The purpose of this hearing is to finalize the discussion of the issues required for the formation of a new independent Community Services District, begun at the May 16, 2007 hearing. The Board of Supervisors' initiation of this proposal by resolution in August 2006 was in response to a community-based Feasibility Study Committee (Committee) which, after several years of review, recommended the formation of a Community Services District to provide for a single, multi-purpose special district as the preferred form of government for its community.

The Committee has outlined the assumption of responsibility for the existing services of water, park and recreation and streetlighting, with all other services available to a CSD to be considered latent powers, subject to further LAFCO review. If the proposal is successful, the new district will pay the cost of the election; however, if it fails, the cost is borne by the County. The timeline of Commission actions necessary to place this item before the electorate on the February 5, 2008 ballot is as follows:

- The Commission must take its final action on this proposal by no later than the September 19, 2007, hearing which includes a determination to approve the formation of the CSD and adoption of its resolution setting forth the terms and conditions imposed upon LAFCO 3070;
- The adoption of the Commission's resolution starts the 30-day reconsideration period required by Government Code Section 56895 – anticipated to begin September 20<sup>th</sup> through October 19<sup>th</sup>;
- During this reconsideration period, the Board of Supervisors will be requested to place an item on its October 23<sup>rd</sup> or October 30<sup>th</sup> Agenda to direct that the Registrar of Voters place the matter on the February 5, 2008 Presidential primary ballot.
- At either the October 17<sup>th</sup> or November 21<sup>st</sup> hearing the Commission will be presented with an Impartial Analysis for review and adoption for use in the ballot materials for the February election.

At the May hearing the evaluation of this proposal began, with the Commission making its required determination related to the boundaries and environmental review.

In arriving at its environmental determination the Commission was required to answer the question *"Would the proposed formation have any adverse environmental effects that cannot be mitigated to a level of non-significance? If it does, can those adverse effects be overridden by other benefits?"* At the May 16<sup>th</sup> hearing, the Commission reviewed, considered and adopted the Initial Study and proposed Mitigated Negative Declaration for LAFCO 3070. In doing so; it adopted the following mitigation measure:

*"LAFCO shall ensure that the existing tax rate allocation within CSA 56 is revised/modified to shift either \$40,000 or other specific amount of funds generated for park and recreation services in Fiscal Year 2006-07 to Wrightwood. This revision*

*shall result in adequate funding being made available to the Wrightwood portion of CSA 56 to meet current park and recreation service levels.”*

As outlined in the Initial Study, inclusion of this mitigation measure reduces the impact to a level of non-significance; therefore, there will be no adverse environmental effects from the project. The required Notice of Determination was filed for this project on May 21, 2007.

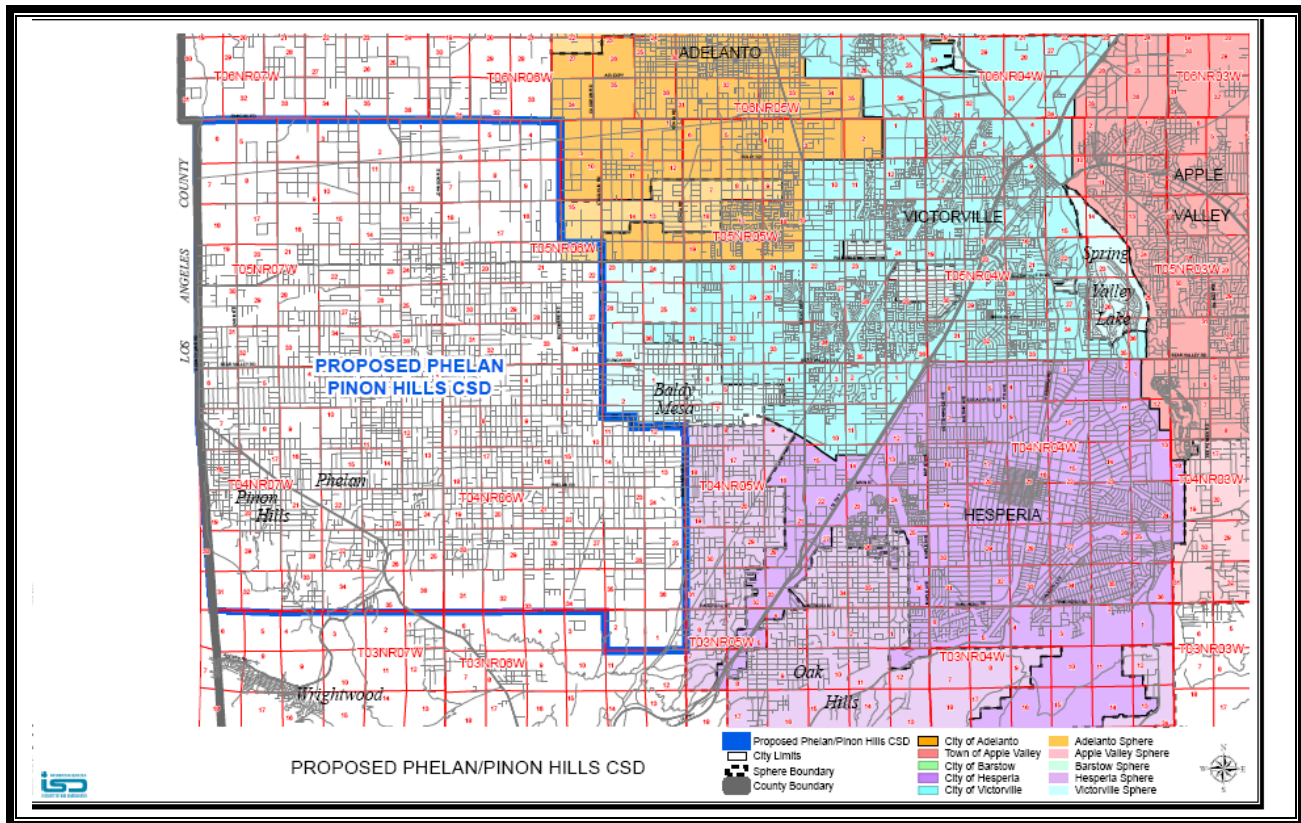
The Commission’s boundary determination needed to answer the questions identified in Commission policies and State law, identified as follows:

- Do the boundaries of the proposed new district make sense from a service delivery perspective for current and future growth?
- Are the boundaries reasonably recognizable?
- Do they promote efficient service delivery?
- Do they represent a community of interest?
- Do the proposed boundaries infringe on other established spheres of influence that might impede achievement of Commission goals in those areas?

The determinations made at the May hearing are as follows:

1. The boundaries presented to the Commission for the Phelan Piñon Hills CSD through LAFCO 3070 represent the combined communities of Phelan and Piñon Hills, establishing a cohesive socio-economic community of interest.
2. The boundaries of LAFCO 3070 represent a reasonable service boundary for current and future growth within the community as identified by the Phelan Community Plan, adopted by the County Board of Supervisors March 13, 2007.
3. The boundaries represent an efficient service delivery pattern for the full range of services contemplated for the agency through absorption of the existing service providers: CSA 9, CSA 56 Zone F-1, and CSA 70 Zone L and the detachment of the financing entity, CSA 56.
4. The area of the City of Adelanto sphere of influence which has been included within the Phelan Piñon Hills CSD is currently provided water service through CSA 70 Zone L and cannot be easily transferred to service by the City of Adelanto. The City of Adelanto has been contacted and has presented no objection to the inclusion of this area. Therefore, it should be included within the boundary of CSD. No other entity’s established sphere of influence is infringed upon by the boundaries of the Phelan Piñon Hills CSD. Copies of the proposal were provided to the Cities of Adelanto, Victorville and Hesperia and no opposition to the boundary was expressed at or prior to the May hearing or in the interim.

The map provided below shows the boundaries accepted by the Commission as proposed for the Phelan Piñon Hills CSD and their relationship to the Cities and their spheres of influence in the region:



This hearing will require the Commission to turn its attention to the final elements remaining for its consideration -- financial and service related determinations to be made for this formation. State law requires that the Commission's decision must include, but not be limited to, answers to the following questions:

1. Would the formation of the new district impair the ability of any other agency to continue providing services? Would there be any adverse financial or service impacts on other agencies that would damage their ability to maintain service levels in other areas?
2. Is the proposed new district financially feasible? Can it, at least, maintain the pre-formation service levels that are currently provided within the study area?
3. Does the proposed formation represent the best available service option for the community? Are there better alternatives for the provision of the range of services within the study area? Does the proposed formation provide for a more efficient and accountable form of government?

## **FINANCIAL CONSIDERATIONS**

The County has submitted a Feasibility Study, prepared by the Phelan Piñon Hills Feasibility Committee, as a part of its application and has supplemented that document with additional information, as required by LAFCO staff, during the processing of the application. The Board Agenda Item initiating the application and the Feasibility Study are included as Attachment #2 to this report and the relevant supplemental information received during the processing of the proposal is included as Attachment #3. The Commission is required to review these materials, and the LAFCO staff response to them, in order to make its determinations that:

1. The formation of the District is financially feasible;
2. The District has the ability to maintain the service levels provided by the dissolving and detaching entities and has the ability to sustain those levels of service; and
3. The District will have a reasonable reserve for the first three years of its existence.

### **Property Tax Transfer:**

The first order of business in evaluating the reorganization required staff to provide a determination on what the property tax transfer would be for this proposal pursuant to the provisions of Government Code Section 56810. As outlined in Section 56810, LAFCO staff contacted the County Auditor/Controller-Recorder and requested information regarding the property tax revenues attributable to the affected agencies, CSA 9, CSA 56, CSA 56 Zone F-1, and CSA 70 Zone L, which would be either dissolved or detached through the formation of the new Phelan Piñon Hills CSD. Excluded from this list were CSA 70 Zone L-1 (a special assessment entity) and CSA 70 Zone P-4 (an entity with no share of property tax revenues). The Auditor's response indicated that for Fiscal Year 2006-07 the property tax revenue distributions for the affected agencies within LAFCO 3070 were as follows:

CSA 9	\$ 50,513
CSA 56	\$658,417
CSA 56 Zone F-1	\$233,372
CSA 70 Zone L	\$692,877

In the case where all the services provided by the entity are to be transferred, pursuant to Government Code Section 56810(d), the Commission shall transfer the full amount of the property revenues attributable from the area. Therefore, the recommendation will be that the Commission determine that the full share of the property tax revenues of CSA 9 (\$50,513) and CSA 70 Zone L (\$692,877) for Fiscal Year 2006-07 shall be transferred to the Phelan Piñon Hills CSD.

However, in the case where all the service obligations are not to be transferred, pursuant to Government Code Section 56810(c) (3), the Commission is required to determine the amount of revenues based upon the cost of providing the service. Falling within this category are the revenues associated with CSA 56 and CSA 56F-1. The as valorem property tax revenues for Fiscal Year 2006-07 for these agencies are identified as:

CSA 56	\$658,417
CSA 56 Zone F-1	\$233,372

These agencies are multi-function, providing fire protection and park and recreation services through a division of the property tax revenues received between the County's Special Districts Department (for park services) and its Consolidated Fire Agency (for fire and ambulance services). The County has a standard practice of dividing the revenues through an existing percentage distribution formula. The information outlined below identifies the park and recreation revenues utilizing this formula:

CSA 56	\$59,258	(91% Fire/9% CSA 56)
CSA 56 Zone F-1	\$42,007	(82% Fire/18% CSA 56 Zone F-1)

As a part of the overall County Fire Reorganization currently in process, LAFCO, County Administrative Office, County Special Districts, and County Fire staffs have been working on developing a resolution for the permanent transfer of fire funding from multi-purpose County-governed agencies. These determinations affect LAFCO 3070 since the fire revenues associated with CSA 56 and CSA 56 Zone F-1 must be preserved for this service and transferred to the new County Fire Protection District.

However, this determination creates an additional problem related to the timing of the County Fire Reorganization. The County Fire Reorganization is now anticipated to begin Commission consideration at the September 19, 2007, hearing with the hope of completing the process by December 2007. However, should circumstances arise that would delay that process until after the completion of LAFCO 3070, there needs to be a mechanism to address the preservation of these fire revenues. The staff believes that the issue of timing and preservation of funding can be resolved and has identified the specific issues for each agency as follows:

**1. For CSA 56:**

According to the April 13, 2007 letter from the County, the historic division of property tax revenues for CSA 56 is 91% going to fire and 9% going toward park and recreation service. Based upon the \$658,417 in property tax revenues generated within the Piñon Hills community for CSA 56, \$599,159 will be transferred for continuing fire responsibilities in Wrightwood to the County Fire Protection District as a function of LAFCO 3000. If the County Fire Reorganization is not completed prior to the successful completion of LAFCO 3070, a condition of approval will be included to transfer these fire revenues to CSA 70 as an interim vehicle.

The \$59,258 attributable to park and recreation services complicates the processing of this application. Pursuant to the provisions of 56810(c)(3), the Piñon Hills community does not receive services through CSA 56; CSA 56 is solely a service provider for the community of Wrightwood for fire protection and park and recreation services; therefore, its revenues cannot be transferred for park and recreation services within the Phelan Piñon Hills CSD. Under the standard reorganization property tax transfer process, these revenues would be transferred to the Phelan Piñon Hills CSD as a function of the detachment. As noted in the environmental

analysis of this proposal, transfer of these revenues outside the Wrightwood community would represent a reduction in revenues to support CSA 56's park and recreation functions to serve the community of Wrightwood and their removal would render that entity unable to continue to sustain its level of service.

**2. For CSA 56 Zone F-1**

According to the April 13, 2007 letter from the County, the historic division of property tax revenues for CSA 56 Zone F-1 is 82% going to fire and 18% going toward park and recreation service. Based upon the \$233,372 in property tax revenues generated within the Piñon Hills community for CSA 56 Zone F-1, \$191,365 will be transferred for continuing fire responsibilities to the County Fire Protection District. If the County Fire Reorganization is not completed prior to the successful completion of LAFCO 3070, a condition of approval will be included to transfer these revenues to CSA 70 as an interim vehicle. The \$42,007 attributable to park and recreation services will be transferred to the Phelan Piñon Hills CSD.

During the period between the May and the August hearings, LAFCO, County Administrative, Auditor/Controller-Recorder and Special Districts staffs and members of the Feasibility Committee have worked to resolve the problems associated with this situation. The agreed upon solution is to require a shifting of County Service Area 56 property tax revenues in the following ways:

1. The amount of \$25,944 in property tax revenues, based upon Fiscal Year 2006-07 calculations, from within CSA 56 in the Piñon Hills community is to be transferred to the Wrightwood community to maintain the existing level of service through the process outlined in Revenue and Taxation Code Section 99.02 and to comply with the Commission's required environmental mitigation measure. This will require the permanent shifting of dollars (percentage share of revenues) from within the Tax Rate Areas (TRAs) within the Piñon Hills community to the TRAs in the Wrightwood community as a LAFCO condition of approval.
2. The amount of \$33,314 in property tax revenues, based upon Fiscal Year 2006-07 calculations, from within CSA 56 in the Piñon Hills community will be transferred to CSA 56 Zone F-1 to support park and recreation functions. This will increase the property tax revenues for this function to \$75,321. This revenue will be transferred to the Phelan Piñon Hills CSD as a function of the Commission's approval of the reorganization.
3. The fire revenues from within the TRAs for CSA 56 and CSA 56 Zone F-1 within the Piñon Hills community are intended to be transferred to the County Fire Protection District as a function of the reorganization identified as LAFCO 3000. If this reorganization is not completed prior to the effective date of the formation of the Phelan Piñon Hills CSD, those revenues, identified as \$599,159 for CSA 56 and \$191,365 for CSA 56 Zone F-1, totaling \$790,524 for Fiscal year 2006-07, shall be transferred to County Service Area 70 (Fire Administration) as a temporary measure to allow for completion of LAFCO 3000. A condition reflecting this has been included in the staff's recommendation for this proposal.



Through adoption of the determinations outlined above, the base year property tax transfer to the new Phelan Piñon Hills CSD through approval of LAFCO 3070, using Fiscal Year 2006-07 revenues, will be:

CSA 9	\$ 50,513
CSA 70 Zone L	\$658,417
CSA 56 Zone F-1	<u>\$ 75,321</u>
<b>TOTAL</b>	<b>\$784,251</b>

All revenue calculations for this proposal have been identified using Fiscal Year 2006-07 revenues; however, for Fiscal Year 2007-08 the property tax revenues for the County have increased approximately 15%. Applying that percentage to the revenues identified above would be a total of \$901,889, an increase of \$117,638.

#### **Calculation of Appropriation Limit:**

For the formation of any new special district, the Commission is required to establish its provisional appropriation limit, also known as the Gann Limit, pursuant to requirements of the California Constitution. Government Code Section 56811 sets forth the required method to be utilized in calculating the provisional appropriation limit for the new Phelan Piñon Hills CSD. Under typical circumstances, the appropriation limit of the dissolving entities would be identified, added together and transferred to the new agency, with an estimated change in the cost-of-living applied. As identified at the May hearing, however, CSA 70 Zone L had no appropriation limit assigned, and the appropriation limit for CSA 56 F-1 and CSA 56 were identified as being for fire protection purposes only.

In response to discussions held between LAFCO, County Administrative Office, Special Districts, and Auditor/Controller-Recorder staffs, the County Board of Supervisors on June 26, 2007 took an action to establish the preliminary appropriation limit for CSA 70 Zone L (\$1,013,585) and to identify a separate appropriation limit for the park and recreation functions for CSA 56 (\$375,390) and CSA 56 Zone F-1 (\$39,677) for Fiscal Year 2006-07. Only a portion of the property tax revenues for CSA 56 is to be transferred to the new Phelan Piñon Hills CSD; therefore, a share of appropriation limit assigned to CSA 56 is to be transferred to the new Phelan Piñon Hills CSD. LAFCO staff has calculated that share as 22% of the newly assigned appropriation (\$375,390) should be transferred which represents \$78,626.

Appropriation Limit for CSA 70 Zone L	\$1,013,585
Appropriation Limit for CSA 56 Zone F-1	\$ 39,677
Transfer Share from CSA 56	<u>\$ 78,626</u>
<b>TOTAL</b>	<b>\$1,131,888</b>

The Auditor/Controller's report indicated that the change factor for Fiscal Year 2006-07 was 1.0636%. LAFCO staff has applied this change factor to the appropriation limit determination above to provide for a provisional appropriation limit for the Phelan Piñon Hills CSD for Fiscal Year 2007-08 of \$1,203,876.

Therefore staff's recommendation will include the following condition of approval:

*Pursuant to the provisions of Government Code Section 56811, the provisional appropriation limit of the Phelan Piñon Hills CSD shall be set at \$1,203,876. The permanent appropriation limit shall be established at the first district election held following the first full fiscal year of operation and shall not be considered to be a change in the appropriations of the district pursuant to Article XIII B of the California Constitution.*

### **PROPOSED REVENUES AND EXPENDITURES:**

With these determinations made, the Commission can now turn its attention to the discussion of whether or not the Phelan Piñon Hills CSD is financially feasible and whether or not, according to Commission policies, it can maintain pre-formation levels of service. In order to make these determinations, the Commission is required to review the feasibility study presented by the proponents, with the supplemental documentation provided at the request of LAFCO staff, against Community Service District Law requirements, Cortese-Knox-Hertzberg Local Government Reorganization Act requirements, and the policies of the Commission.

Staff has prepared a series of tables which illustrate the revenue and expenditure data evaluated in the application – the County data for the entities being dissolved, the Feasibility Study revenue and expenditure information, and LAFCO staff's determinations based upon supplemental information and discussions during the processing of this proposal.

The first table shows combined revenues and expenditures from the three entities being dissolved in this application – CSA 70 Zone L, CSA 9 and CSA 56 Zone F-1 -- from the County side of this discussion. This information includes for Fiscal Years 2003-04, 2004-05, and 2005-06 as presented in the adopted Audit Reports prepared by an outside audit firm; the information for Fiscal Year 2006-07 is taken from the estimated year-end total included in the proposed budget for the agencies, Fiscal Year 2007-08 presents the budget adopted for the upcoming year. This information was used as a basis for developing the budget projections for the newly formed Phelan Piñon Hills CSD as they desired to maintain the existing levels of service.

	Audit for 2004 DISTRICTS COMBINED	Audit for 2005 DISTRICTS COMBINED	Audit for 2006 DISTRICTS COMBINED	COUNTY 2006-07 ESTIMATED YEAR END	COUNTY 2007-08 PROPOSED BUDGET
APPROPRIATION					
SALARIES AND BENEFITS	\$1,399,804.00	\$1,489,265.00	\$33,871.00	\$31,658.00	\$42,124.00
SERVICES AND SUPPLIES	\$1,610,415.00	\$1,502,835.00	\$1,429,967.00	\$1,448,697.00	\$1,985,199.00
CENTRAL COMPUTER	\$2,217.00	\$1,952.00	\$0.00	\$5,239.00	\$0.00
OTHER CHARGES	\$266,409.00	\$407,653.00	\$349,212.00	\$478,247.00	\$451,905.00
LAND-STRUCTURES-IMPROVEMENTS		\$0.00	\$0.00	\$0.00	\$0.00
EQUIPMENT/VEHICLES	\$57,224.00	\$0.00	\$9,800.00	\$84,000.00	\$25,000.00
TRANSFERS OUT		\$10,744.00	\$2,009,036.00	\$2,265,146.00	\$2,660,245.00
REIMBURSEMENTS	-\$69,527.00	-\$24,855.00	-\$22,940.00	-\$33,767.00	-\$26,000.00
OPERATING TRANSFERS OUT	\$2,870,428.00	\$2,274,420.00	\$1,862,646.00	\$1,056,359.00	\$2,729,367.00
RESERVES AND CONTINGENCIES		\$0.00	\$0.00	\$0.00	\$3,178,503.00
DIRECTOR STIPENDS/EXPENSES					
START-UP COSTS (NON-OPERATING)					
EQUIPMENT/SOFTWARE					
VEHICLES		\$0.00		\$0.00	\$0.00
TOTAL EXPENDITURES	\$6,136,970.00	\$5,662,014.00	\$5,671,592.00	\$5,335,579.00	\$11,046,343.00
REVENUES					
TAXES**	\$516,963.00	\$551,788.00	\$690,578.00	\$780,913.00	\$972,933.00
LICENSES AND PERMITS	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
FINES AND FORFEITURES	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
USE OF MONEY AND PROPERTY	\$35,971.00	\$45,290.00	\$123,366.00	\$82,677.00	\$73,622.00
STATE, FEDERAL AID	\$40,607.00	\$105,622.00	\$80,000.00	\$0.00	\$100,000.00
CURRENT SERVICES	\$3,200,297.00	\$3,425,128.00	\$3,501,461.00	\$3,585,120.00	\$3,850,065.00
OTHER REVENUE	\$53,068.00	\$341,181.00	\$912,079.00	\$281,139.00	\$287,618.00
OTHER FINANCING SOURCES	\$1,304,980.00				
OPERATING TRANSFERS IN/SDD SETTLEMENT	\$1,945,369.00	\$2,988,236.00	\$1,017,840.00	\$2,287,460.00	\$2,691,706.00
		\$0.00		\$0.00	\$0.00
TOTAL REVENUES	\$7,097,255.00	\$7,457,245.00	\$6,325,324.00	\$7,017,309.00	\$7,975,944.00
FUND BALANCE			\$1,795,231.00	\$2,961,546.00	\$3,950,399.00

The following Table is taken from the Feasibility Study presented as a part of the County's application as required by Commission policy identifying the proposed budget for the first three years of the proposed Phelan Piñon Hills CSD existence. LAFCO staff has also included the County estimated year-end totals for Fiscal Year 2006-07 to this information to provide a base for comparison.

	COUNTY 2006-07 ESTIMATED YEAR END TOTAL COMBINED AGENCIES	FISCAL YEAR 2007-08  CSD PROPOSED	FISCAL YEAR 2008-09  CSD PROPOSED	FISCAL YEAR 2009-10  CSD PROPOSED
<b>APPROPRIATION</b>				
Salaries and Benefits	\$31,658.00	\$2,080,594.00	\$2,080,594.00	\$2,080,594.00
Services and Supplies	\$1,448,697.00	\$1,681,065.00	\$1,737,350.00	\$1,808,046.00
central computer	\$5,239.00	\$0.00	\$0.00	\$0.00
other charges	\$478,247.00	\$480,000.00	\$485,000.00	\$505,000.00
land/structures/improvements	\$0.00	\$0.00	\$0.00	\$0.00
equipment/vehicles	\$84,000.00	\$0.00	\$0.00	\$0.00
transfers out	\$2,265,146.00	\$0.00	\$0.00	\$0.00
reimbursements	-\$33,767.00	\$0.00	\$0.00	\$0.00
operating transfers out	\$1,056,359.00	\$0.00	\$0.00	\$0.00
reserves and contingencies	\$0.00	\$0.00	\$0.00	\$0.00
Director Stipends/Expenses		\$18,000.00	\$18,000.00	\$18,000.00
Start-Up Costs (non-operating)				
Equipment/Software		\$100,000.00	\$100,000.00	\$100,000.00
Vehicles		\$224,000.00	\$224,000.00	
<b>TOTAL EXPENDITURES</b>	<b>\$5,335,579.00</b>	<b>\$4,583,659.00</b>	<b>\$4,644,944.00</b>	<b>\$4,511,640.00</b>
<b>REVENUES</b>				
Taxes**	\$784,251.00	\$67,660.00	\$67,700.00	\$67,700.00
Licenses and Permits	\$0.00	\$0.00		
Fines and Forfeitures	\$0.00	\$0.00		
Use of Money and property	\$82,677.00	\$78,000.00	\$78,000.00	\$78,000.00
State,Federal aid	\$0.00	\$0.00		
Current Services	\$3,585,120.00	\$3,589,125.00	\$3,639,225.00	\$3,620,575.00
Other Revenue	\$281,139.00	\$940,000.00	\$942,000.00	\$940,000.00
Other Financing Sources	\$0.00	\$76,000.00	\$74,000.00	\$71,000.00
Operating Transfers In/SDD Settlement	\$2,287,460.00			
<b>TOTAL REVENUES</b>	<b>\$7,020,647.00</b>	<b>\$4,750,785.00</b>	<b>\$4,800,925.00</b>	<b>\$4,777,275.00</b>
<b>FUND BALANCE*</b>	<b>\$2,961,546.00</b>	<b>\$3,128,672.00</b>	<b>\$3,284,653.00</b>	<b>\$3,550,288.00</b>
*Fund Balance added from Special Districts Information by LAFCO staff				
**Property Tax Information Added to Special Districts Information by LAFCO staff				

## Revenues:

Staff's concerns regarding the revenues detailed above are as follows:

1. The property tax revenues associated with CSA 70 Zone L was not identified in the Feasibility Study budget for review. This occurred since property tax revenues are

not shown in the operating budget for this entity. The ad valorem property tax revenues are collected and deposited into the “Capital Replacement Fund” separately accounted for and budgeted by the Special Districts Department. This Capital Replacement Fund provides for a portion of the funding for the “operating transfer in” each year to CSA 70 Zone L.

2. The Capital Improvement Program is separately budgeted and identified by the County Special Districts Department. This program was not shown in the proposed budget in the Feasibility Study. LAFCO staff has requested information from the County Special Districts Department regarding this program.
3. Revenues associated with the “Capital Replacement” and “Zone L Expansion” funds are separately budgeted by the Special Districts Department. LAFCO staff has requested information from the County regarding the distribution of connection fees into the Capital Replacement Fund and the stand-by charges in the Zone L Expansion Fund.

The Feasibility Study presented to the Commission anticipates the continuation of all existing fees and charges of the dissolving and detaching entities, which would include the stand-by and connection fees.

### **ASSETS:**

The Phelan Piñon Hills CSD shall succeed to all properties, land, improvements, equipment, etc. owned in the name of any of the dissolving entities. Listings of these assets are on file in the LAFCO office. In processing this proposal a number of additional items requiring documentation were required to be resolved. These are outlined below:

### **Capital Improvement Program:**

As noted above the Capital Improvement Program is identified separately in the County Special Districts Budget Book. The following chart includes the projects identified in the Fiscal Year 2006-07 and Fiscal Year 2007-08 budget book with their assigned cash balance:

RESERVES:	FY 06-07	FY 07-08
Capital Improvement Projects		
Cash Balances:		
CSA 9 Park Improvements	\$857.00	\$1,037.00
CSA 56 F-1 Senior Center Parking Lot	\$79,979.00	\$0.00
CSA 70 ZONE L:		
Transmission mains	\$87,357.00	\$121,639.00
booster 2 B replace	\$199,375.00	\$206,325.00
Booster 6A Rehab	\$275,961.00	\$283,957.00
Well #14 Expansion	\$87,321.00	\$915,235.00
Booster at Zone L/J Intertie	\$0.00	\$76,500.00
Pipeline Replacement	\$0.00	\$0.00
Well #10 Booster & Electrical	\$102,596.00	\$106,173.00

Well #9c	\$795,858.00	\$823,605.00
Field Office Remodel	\$0.00	\$0.00
Equipment Site Upgrade	\$57,505.00	\$48,001.00
Line Extensions/Looping	\$140,849.00	\$227,883.00
Raise Reservoirs 1A, 1B, 1C, & 2C	\$443,192.00	\$446,110.00
General Reserves:		
Equipment/Vehicle Reserves (17.2% of balance of \$466,726)		\$80,277.00
CSA 70 Zone L Capital Replacement	\$1,469,015.00	\$2,906,670.00
CSA 70 Zone L Expansion	\$4,556,094.00	\$5,225,715.00
	\$8,295,959.00	\$11,469,127.00

This information needs to be added to the evaluation of the financial position of the proposed Phelan Piñon Hills CSD.

### **Pooled Equipment and Reserve Funds:**

In addition, there was no discussion provided in the Feasibility Study to address the issue of shared ownership of equipment or the division of pooled reserve funds for such categories as: Termination and Benefits Reserve; Equipment & Vehicles Reserve; and Capital Replacement Reserve or a methodology provided to account for disbursement of the equipment owned in a pool by the Water and Sanitation Division of County Special Districts to the new CSD. Over the last ten months, numerous meetings have been held with County Administrative staff, Special Districts staff, LAFCO staff and members of the Feasibility Committee to develop a methodology for such a transfer. This methodology was required to be acceptable to the County on behalf of the other affected agencies, to the Feasibility Committee representing the community and LAFCO staff for the future sustainability of the new agency. The following are the determinations made in this regard:

1. Terminations Benefit Reserve will be unaffected by this reorganization on the basis that no employee is being transferred to the new agency, all will remain with County Special Districts:
2. Capital Replacement Reserve is intended to provide funding for maintenance of administrative facilities needed to operate the Special Districts Department overall. No transfer from this fund will be provided as the monies on account have been allocated to projects; however, no contribution to this fund will be made during Fiscal Year 2007-08 unless and until the election on the Phelan Piñon Hills CSD is unsuccessful.
3. Pooled Equipment and Equipment Reserve Fund:

The letter dated July 19, 2007, from Mr. Tom Sutton, Special Districts Director, outlines the methodology to establish the new Phelan Piñon Hills CSD's share of

the pooled resources (a copy of the letter is included as Attachment #6 to this report). The total share to be distributed is a value of \$403,980. The methodology is summarized as follows:

- i. The Phelan Piñon Hills CSD shall be entitled to equipment from the pooled stock in a value of \$323,703, which represents 17.2% of the pooled value. The Special Districts Department letter identifies that this percentage has been determined pursuant to a calculation which considers the percentage that Zone L contributed to the fund over a three year period. In addition, the Special Districts Department has provided a listing of the equipment available for this distribution including a value that has been assigned to be used in the selection process by the Phelan Piñon Hills CSD Board of Directors. This distribution is in addition to the equipment, trucks, cars, tools, etc. owned in the name of CSA 70 Zone L which will be transferred without negotiation. This information has a detailed listing of equipment with anticipated values which has been provided to the members of the Feasibility Committee and is on file in the LAFCO office.
- ii. The Phelan Piñon Hills CSD shall be entitled to funds from the Equipment and Vehicle Reserve based upon 17.2% of the \$408,774 fund balance identified in the Fiscal Year 2007-08 Special Districts Budget Book. This represents a value of \$80,277.
- iii. In addition, it has been determined that should the Board of Directors of the Phelan Piñon Hills CSD determine to take the total \$403,980 of pooled equipment and reserve fund value in cash, it must spread that payment over a three (3) to five (5) year period so that the County fund is not totally depleted. The time period is to be negotiated by the County and the Board of Directors for the CSD. LAFCO staff is presenting a condition of approval to address these circumstances.

**Properties not included in the name of a dissolving entity:**

There are a number of properties that were purchased and have been used on behalf of CSA 70 Zone L which are listed in the legal ownership name of either the County of San Bernardino or County Service Area 70, entities unaffected by this proposed change. Special District and County Administrative Staff have indicated that it is the position of the County that these properties will be transferred to the new agency upon its formation.

**EXPENDITURES:**

The Feasibility Study provides an outline of the services to be continued and the budget anticipates the continuation of these services at present levels. Those services are park and recreation – through the administration of two community/senior centers with parks and the planning for a future park through Prop. 40 funding received for the combined Phelan and Piñon Hills communities; streetlighting – the maintenance of the existing 92 streetlights

in the community transferred by this action and the future operation of streetlights required through the County land use process; and water service to the existing 6,000 plus customers of CSA 70 Zone L and the implementation of programs and planning to serve the new connections anticipated through the County Land use process. The following are the areas of concern related to the expenditure information provided:

1. Under normal circumstances when considering such a formation, the Commission would transfer the employees from the predecessor agencies to the new agencies which would continue its operations unimpeded. However, as was the case with the formation of the Helendale CSD, there are no employees to transfer to the new entity to continue its services. The County's current staffing structure is to use a "pooled" employee resource through the parent district, County Service Area 70, for all services performed by the detaching and dissolving agencies. Water functions are performed by the pooled employees within the County Special Districts Department's Water and Sanitation Division. Park and Recreation and Streetlighting services are administered through the pooled employees associated with the County Special Districts Departments Regional Operation Division. The feasibility study, on page 16, identifies the desire to contract with the County for personnel resources to allow for an orderly transition to local control of these services. In addition, it identifies the potential for continued contracting for operational support from the County. However, no such Plan was presented as a part of this application.

Over the last ten months, LAFCO staff, County Administrative and Special District staff, representatives of the First District and the Feasibility Study have worked to develop a transition plan, a draft contract for Interim General Manager services, which is required since Community Services District law requires a General Manager position (Government Code Section 61050) and this position cannot be filled by a member of the Board of Directors (Government Code Section 61040(e)), and a transitional plan for provision of continued service through the balance of the fiscal year following formation as a condition of approval. The Draft Transition Plan is presented as Attachment #7 to this report.

2. The budget information provided did not identify the cost for a successful election, which would be the responsibility of the CSD nor did it include the requirement for payment of the LAFCO apportionment which would occur as an independent Special District. LAFCO staff has added this to the information.
3. CSA 70 Zone L has an outstanding loan through the California Economic Development and Infrastructure Bank (CIEDB) in the amount of \$4,001,000. This loan was originally taken out in 2002 in order to purchase land and to install a new well in Los Angeles County, install the pipes to connect this well to the Zone L system, and upgrade reservoirs within the District. These improvements were designed to bring the District into compliance with the storage requirements set forth for the system by the California Water Resources Board and Department of Health Services. The improvements funded by this loan are anticipated to be completed by November 2007, allowing finalization of loan payments.



LAFCO staff has been working over the last six (6) months to secure approval for the transfer of this obligation to the new Phelan Piñon Hills CSD. This process has been somewhat complicated by the fact that the loan is in the name of the County of San Bernardino, on behalf of CSA 70 Zone L, and the terms of the agreement require CIEDB Board of Director approval for assumption of this obligation. Specifically, Section 5.09 of the Installment Loan agreement states that three items are required for this approval to take place:

- A legal opinion is required from legal counsel specifying that the transfer of the obligation will not affect the tax exempt status of the bonds sold to fund the loan;
- A report by a Certified Public Accountant concluding that the transfer of the agreement would not materially adversely affect the security for the Installment Payment, Additional Payments or rights of the I-Bank under the Agreement;
- That the Phelan Piñon Hills CSD is an entity which is eligible to have such a loan; and,

Additionally, the CIEDB has requested copies of the “ordinance, resolutions or incorporation documents” that specify the operation of the district. LAFCO staff has responded to these questions identifying that the current process contemplates the formation of the district and adoption of the documents requested. This Catch-22 situation has been addressed, in the view of LAFCO staff, through the development of the Transition Plan for transferring the service and the conditions requiring assumption of obligations to pay the installment loan since the entity was being proposed for formation. The annual obligation for payment of this loan is \$231,591 for Fiscal Year 2007-08 and is included in the budget under the heading of Other Charges.

On Friday, July 27, 2007, the required package of materials was forwarded for review by CIEDB personnel and hopefully placement on the August 21<sup>st</sup> agenda for the CIEDB Board of Directors to consider. Finalization of the approval process for this application may require inclusion of conditions of approval necessary to facilitate this transfer. A copy of this material is included as Attachment #8 to this report.

This circumstance requires continuation of the consideration of LAFCO 3070 to the September 19, 2007 hearing to review the necessary conditions to implement the decision of the CIEDB.

However, if the materials presented do not satisfy either the administration of the CIEDB or its Board of Directors, an interim step will need to be considered by the Commission, the County, and the Feasibility Committee to allow for a contractual relationship replacing the Phelan Piñon Hills CSD for CSA 70 Zone L in the loan documents. This option is not the preferred course of action as it would require the County to be obligated for a loan for facilities it does not own, and the revenues required to pay the loan and the pledges for security would not be under its direction.

In the staff view, should the CIEDB not accept the information provided by LAFCO staff, its hired accounting firm, and the attorney hired by the County, this is the only recourse to allow LAFCO 3070 to move forward for a decision by the electorate.

4. The County Special Districts Department is self-insured for liability, property damage, levels of insurance, etc. requiring the maintenance of substantial levels of funds to allow for repair of damage or other costs. The new Phelan Piñon Hills CSD will need to quickly acquire insurance to cover its operations.

**FINAL BUDGET WITH LAFCO STAFF CHANGES:**

	2004-05 ACTUAL	2005-06 ACTUAL	COUNTY 2006-07 ESTIMATED YEAR END	COUNTY 2007-08 PROPOSED BUDGET	FISCAL YEAR 2007- 08	FISCAL YEAR 2008- 09	FISCAL YEAR 2009-10
	TOTAL COMBINED AGENCIES	TOTAL COMBINED AGENCIES	TOTAL COMBINED AGENCIES	TOTAL COMBINED AGENCIES	CSD PROPOSED	CSD PROPOSED	CSD PROPOSED
APPROPRIATION							
Salaries and Benefits	\$1,489,265.00	\$33,871.00	\$31,658.00	\$42,124.00	\$2,080,594.00	\$2,080,594.00	\$2,080,594.00
Services and Supplies	\$1,502,835.00	\$1,429,967.00	\$1,448,697.00	\$1,985,199.00	\$1,681,065.00	\$1,737,350.00	\$1,808,046.00
central computer	\$1,952.00	\$0.00	\$5,239.00	\$0.00	\$0.00	\$0.00	\$0.00
other charges	\$407,653.00	\$349,212.00	\$478,247.00	\$451,905.00	\$480,000.00	\$485,000.00	\$505,000.00
land/structures/improvements	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
equipment/vehicles	\$0.00	\$9,800.00	\$84,000.00	\$25,000.00	\$0.00	\$0.00	\$0.00
transfers out	\$10,744.00	\$2,009,036.00	\$2,265,146.00	\$2,660,245.00	\$0.00	\$0.00	\$0.00
reimbursements	-\$24,855.00	-\$22,940.00	-\$33,767.00	-\$26,000.00	\$0.00	\$0.00	\$0.00
operating transfers out	\$2,274,420.00	\$1,862,646.00	\$1,056,359.00	\$2,729,367.00	\$1,056,359.00	\$0.00	\$0.00
reserves and contingencies	\$0.00	\$0.00	\$0.00	\$3,178,503.00	\$0.00	\$0.00	\$0.00
Director Stipends/Expenses					\$18,000.00	\$18,000.00	\$18,000.00
LAFCO Apportionment						\$10,000.00	\$10,000.00
Start-Up Costs (non-operating)							
Equipment/Software					\$100,000.00	\$100,000.00	\$100,000.00
Vehicles	\$0.00		\$0.00	\$0.00	\$224,000.00	\$224,000.00	
Election Costs					\$9,000.00		\$9,000.00
TOTAL EXPENDITURES	\$5,662,014.00	\$5,671,592.00	\$5,335,579.00	\$11,046,343.00	\$5,649,018.00	\$4,654,944.00	\$4,530,640.00
REVENUES							
Taxes**	\$551,788.00	\$690,578.00	\$784,251.00	\$972,933.00	\$972,933.00	\$1,021,579.65	\$1,072,658.63
Licenses and Permits	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		
Fines and Forfeitures	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		
Use of Money and property	\$45,290.00	\$123,366.00	\$82,677.00	\$73,622.00	\$82,677.00	\$82,677.00	\$82,677.00
State, Federal aid	\$105,622.00	\$80,000.00	\$0.00	\$700,000.00	\$0.00		
Current Services	\$3,425,128.00	\$3,501,461.00	\$3,585,120.00	\$3,850,065.00	\$3,589,125.00	\$3,639,225.00	\$3,620,575.00
Other Revenue	\$341,181.00	\$912,079.00	\$281,139.00	\$287,618.00	\$940,000.00	\$942,000.00	\$940,000.00
Other Financing Sources					\$76,000.00	\$74,000.00	\$71,000.00

Operating Transfers In/SDD Settlement	\$2,988,236.00	\$1,017,840.00	\$2,287,460.00	\$2,091,706.00			
TOTAL REVENUES	\$7,457,245.00	\$6,325,324.00	\$7,017,309.00	\$7,975,944.00	\$5,660,735.00	\$5,759,481.65	\$5,786,910.63
FUND BALANCE*		\$1,795,231.00	\$2,961,546.00	\$3,950,399.00	\$3,950,399.00	\$3,962,116.00	\$5,056,653.65
*Fund balance for FY 2005-06 calculated by LAFCO staff from 2004-05 actual							
**LAFCO staff has added in the CSA 70 Zone L property tax revenues to the calculation							

The following outlines the Capital Improvement Program cash balances and the Reserve Funds to be transferred to the new district:

RESERVES:	FY 06-07	FY 07-08
Capital Improvement Projects		
Cash Balances:		
CSA 9 Park Improvements	\$857.00	\$1,037.00
CSA 56 F-1 Senior Center Parking Lot	\$79,979.00	\$0.00
CSA 70 ZONE L:		
Transmission mains	\$87,357.00	\$121,639.00
booster 2 B replace	\$199,375.00	\$206,325.00
Booster 6A Rehab	\$275,961.00	\$283,957.00
Well #14 Expansion	\$87,321.00	\$915,235.00
Booster at Zone L/J Interite	\$0.00	\$76,500.00
Pipeline Replacement	\$0.00	\$0.00
Well #10 Booster & Electrical	\$102,596.00	\$106,173.00
Well #9c	\$795,858.00	\$823,605.00
Field Office Remodel	\$0.00	\$0.00
Equipment Site Upgrade	\$57,505.00	\$48,001.00
Line Extensions/Looping	\$140,849.00	\$227,883.00
Raise Reservoirs 1A, 1B, 1C, & 2C	\$443,192.00	\$446,110.00
General Reserves:		
Equipment/Vehicle Reserves (17.2% OF BALANCE of \$466,726)		\$80,277.00
CSA 70 Zone L Capital Replacement	\$1,469,015.00	\$2,906,670.00
CSA 70 Zone L Expansion	\$4,556,094.00	\$5,225,715.00
	\$8,295,959.00	\$11,469,127.00

### Financial Effects on other Levels of Government:

As outlined at the outset of this discussion, one of the questions that the Commission is required to answer is whether or not the formation of the Phelan Piñon Hills CSD would have a financial or service impact on other agencies. As outlined in the Property Tax

Transfer section of this report and in response to the Mitigation Measure adopted at the May 16, 2007 Commission hearing, a transfer of property tax funding to CSA 56 serving the Wrightwood community for park and recreation services will be provided to assure its ability to continue to provide its services.

In addition, the operations of the County Special Districts Department, Water and Sanitation Division will be impacted by the proposed reorganization. However, the County has indicated that the Transition Plan as proposed, along with the potential for future contracting to continue to provide service to the Phelan Piñon Hills CSD if formed, will allow them to accommodate these changes. The Transition Period identified by LAFCO staff will be required until the close of Fiscal Year 2007-08. Based upon the election scheduled for February 5, 2008, that transition period would be approximately five (5) months. Included in the Conditions proposed for this application is the acknowledgement of the Transition Plan, the requirement that the Phelan Piñon Hills CSD be required to sign the Interim General Manager contract immediately to comply with Community Service District law and the requirement to sign the Operation and Maintenance Contract for the Transition Period within ten (10) days of the Board of Directors first scheduled meeting.

### **FINANCIAL DETERMINATIONS:**

Based upon the information and determinations outlined above, it is the staff's position that the Commission can make the following determinations:

1. The formation of the Phelan Piñon Hills CSD is financially feasible and would provide for a reasonable reserve during the first three (3) years of its existence.
2. The formation can maintain the pre-formation service levels that are currently provided within the area and provide for the long range planning necessary to provide for a higher level of service in the future as resources become available.
3. The implementation of the reorganization would not be adverse financially to other agencies providing services nor would it damage the ability of other agencies to provide their range of services with implementation of the conditions and determinations outlined above for transfer of property tax revenues, etc.
4. The implementation of the reorganization would not impair any other agency currently serving within the area through implementation of the conditions related to preservation and transfer of fire protection funding.

### **SERVICE ISSUES AND CONSIDERATIONS**

The Feasibility Study submitted for this application identifies that the services proposed to be provided through the Phelan Piñon Hills CSD include streetlighting, park and recreation, and water service. All of these services are currently provided within the area through entities proposed for dissolution as a function of the reorganization. The following provides a discussion of these services:

**1. Streetlighting:**

Streetlighting is currently provided in the Phelan community through CSA 9 which provides for payment of the energy costs for 92 streetlights at an estimated annual cost of \$9,200 (\$100 per light) plus administrative charges. The lights themselves, including poles and lamps, are owned by Southern California Edison which will remain unchanged in this reorganization process. There are no streetlights within the Piñon Hills community affected by this action as none are owned by a public entity.

LAFCO staff has included a proposed condition of approval which will transfer the streetlights to the Phelan Piñon Hills CSD and require the submission of the paperwork necessary to effectuate this change.

**2. Park and Recreation:**

Park and recreation services are provided within the Phelan community through the operation of the community/senior center, under the auspices of CSA 9. The County has an existing contractual relationship with the “Phelan Seniors”; Contract 00-914 approved August 29, 2000 which provides for an ongoing ten-year term to utilize this facility in exchange for maintenance and operation. The Phelan Piñon Hills CSD shall succeed to the terms of this contract.

Park and recreation services are provided within the Piñon Hills community through the operation of the community/senior center and park under the auspices of CSA 56 Zone F-1. Contractual relationships with the Piñon Hills Seniors and the Piñon Hills Chamber of Commerce had existed for a number of years; however, the contract terms have expired and were not renewed. County Special Districts staff and First District staff have negotiated new contracts with these entities and are preparing the required Board Agenda Items to reinstitute these agreements. The Phelan Piñon Hills CSD shall succeed to the terms of these contracts if they are approved by the County prior to the September 19, 2007 hearing.

The senior lunch programs, funded by the County Department of Housing and Community Development (HCD) through Community Development Block Grant funds, are defined by contracts between HCD and Special Districts. The Phelan Piñon Hills CSD shall succeed to this contractual relationship to continue to provide the senior lunch program.

Copies of contract documents are on file in the LAFCO office.

**3. Water Service:**

The Feasibility Study identifies that the water service operations currently provided through CSA 70 Zone L are to continue under the existing programs, Urban Water Management Plans, Capital Improvement Programs, and fee schedules. All of the operations of CSA 70 Zone L will be transferred to the responsibility of the Phelan Piñon Hills CSD. LAFCO, County Administrative Office, and Special Districts staffs

working with the Feasibility Committee members have worked to develop a Transition Plan to identify a smooth transition for the agency over an approximate five (5) month period concluding on June 30, 2008.

Conditions of approval have been proposed which: require the signing of an Interim General Manager agreement with the County Special Districts Department to fulfill requirements of Government Code Section 61050; require the signing of the Operation and Maintenance Agreement within ten (10) days of the first official meeting of the Board of Directors to allow for the County's continued operation of the system, the payment of costs for this service through the transition period to June 30, 2008; the transfer of all water rights and capacity rights associated with CSA 70 Zone L from the Mojave adjudication; the continuation of all fees, charges, assessments from the dissolving entities; and the requirement that the new Phelan Piñon Hills CSD adopt all existing ordinances, resolutions, rules and regulations, policies, procedures and practices of the dissolving entities upon the effective date of the reorganization.

### **SERVICE DETERMINATIONS:**

Based upon the information presented in this report, it is the staff's position that the Commission can make the following determinations:

1. In response to the question of whether the formation represents the best available service option for the community, the staff would respond in the affirmative on the basis that it provides for a single, multi-function entity to provide the services to the community rather than a continuation of a series of single or multi-purpose entities. Approval of this application by the Commission, and ultimately by the electors, will provide for a locally-elected Board of Directors, with five members from the community, to determine the services provided to the community.
2. The alternatives to the formation are the continuation of the status quo with the multiple MACs to respond to interests of the individual communities and a separate water advisory board. Incorporation of the area as a City is not financially viable at the present time due to the limited sales tax generators within the area. It is the staff's opinion that the creation of a single, multi-function Community Services District will assist the community in achieving local decision-making for the services the community desires and can fund and will provide for selection of the Board of Directors from candidates within the community.
3. It is the staff's recommendation that the authorized functions and services for the proposed Phelan Piñon Hills CSD be identified as follows:

**Water** -- Supply water for any beneficial use as outlined in the Municipal Water District Law of 1911 (commencing with Section 71000) of the Water Code (§61100(a)).

**Streetlighting** -- Acquire, construct, improve, maintain and operate streetlighting and landscaping on public property, public right-of-way, and

public easements (§61100(g)).

**Recreation and Parks** -- Acquire, construct, improve, maintain, and operate recreation facilities, including, but not limited to, parks and open space, in the same manner as a recreation and park district formed pursuant to the Recreation and Park District Law (commencing with Section 5780) of the Public Resources Code (§61100f)).

**DETERMINATIONS:**

The following determinations are required to be provided by Commission policy and Government Code Section 56668 for all proposals considered:

1. The Registrar of Voters Office has determined that the reorganization study area is legally inhabited, containing 8,936 registered voters as of September 27, 2006.
2. The reorganization including formation conflicts with a very small portion of the sphere of influence of the City Adelanto, in the northeastern portion of the proposed District. It is anticipated that this area will ultimately be removed from the City of Adelanto sphere of influence and the City has indicated no objection on the basis that the territory is currently receiving service from CSA 70 Zone L, an entity to be dissolved and transferred to the Phelan Piñon Hills CSD, and service cannot be easily transferred to the City.
3. The County Assessor has determined that the value of land and improvements within the study area is \$1,246,053,176 as of October 5, 2006.
4. Notice of the original hearing was advertised as required by State law through publication in The Sun and the Daily Press, newspapers of general circulation in the area. As required by State law, individual notification was provided to affected and interested agencies, County departments, and those individuals and agencies wishing mailed notice.
5. In compliance with Commission policy and Government Code Section 56157, the Notice of Hearing for the original hearing on this proposal was provided by publication of an eighth-page (1/8 page) legal ad in The Sun, a newspaper of general circulation, and the Daily Press, a local newspaper. Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determination. Opposition has been received and considered by the Commission in making its determination.
6. The proposed reorganization including formation does not conflict with the established County General Plan and the Phelan Community Plan for the area and has no direct impact on such land use designations.
7. The Commission Environmental Consultant, Tom Dodson of Tom Dodson and Associates, prepared and LAFCO staff circulated and advertised the environment assessment and Mitigated Negative Declaration for the reorganization pursuant to

the provisions of the California Environmental Quality Act (CEQA), which indicates that approval of the reorganization with the mitigation as identified will not have a significant adverse impact on the environment. The Commission took the actions necessary to certify and adopt this environmental determination at the May 16, 2007 hearing and the Notice of Determination was filed on May 21, 2007.

8. The local agencies currently serving the area are:

- County of San Bernardino
- Mojave Water Agency
- Mojave Desert Resource Conservation District
- County Service Area 9 (park and recreation, streetlights, road maintenance – Phelan community)
- County Service Area 38 (fire protection – Phelan community)
- County Service Area 56 (fire protection, park and Recreation – Wrightwood community)
- CSA 56 Improvement Zone F-1 (fire protection and park and recreation – Piñon Hills Community)
- County Service Area 60 (Apple Valley Airport)
- County Service Area 70 (multi-function agency)
- County Service Area 70 Improvement Zone G (road maintenance -- Oak Springs)
- County Service Area 70 Improvement Zone L (water service – Phelan and Piñon Hills communities)
- County Service Area 70 Improvement Zone P-4 (regional park and recreation for the Phelan community)
- County Service Area 70 Improvement Zones R-32 (road maintenance), R-38 (road maintenance) and R-39 (road maintenance for Highland Estates – Phelan)

The affected agencies are CSA 70 Zone L, CSA 70 Zone P-4, CSA 9, and CSA 56 Zone F-1 to be dissolved and CSA 56 is to be detached as a function of this reorganization. The other agencies are not affected by this reorganization as they are regional in nature or identified for service to a specific area.

9. The County of San Bernardino, as the proponent for LAFCO 3070, has submitted a Feasibility Study which addresses the issues required in a plan for the provision of services as required by Government Code Section 56653. This document, including its amendments and supplements, shows that the Community Service District has sufficient revenues to provide its active range of services (water, park and recreation and streetlighting) upon formation. The Feasibility Study and its supplemental information have been reviewed and compared with the standards established by the Commission and the factors contained within Government Code Section 56668. The Commission finds that such Study and its supplemental data conform to those adopted standards and requirements.



10. The reorganization area can benefit from the availability and extension of services, as evidenced by the Feasibility Study and its supplemental data.
11. This proposal complies with Commission and State policies that indicate the preference for the creation of multi-purpose agencies to serve growing communities. This position is taken on the basis that areas proposed for development can be planned, funded, services extended and maintenance funding put in place for the full range of service needs as identified by adopted community and general plans.
12. The maps and legal descriptions, as revised are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's office.

### **CONCLUSIONS:**

Throughout the staff reports prepared for the Municipal Service Reviews for the entities serving the Phelan and Piñon Hills Communities, the May 16, 2007 hearing report outlining the environmental assessment and boundary determinations for LAFCO 3070, and this report, staff has presented the information and data necessary to evaluate LAFCO 3070. It has been agreed that Phelan Piñon Hills is a growing community, as outlined in the Phelan Community Plan, which has supported the retention of rural lifestyles through the implementation of their community plan. There has been little opposition to the proposal as presented from within the community, and there is a longstanding desire by representatives of the affected communities to seek local-control of their services. Approval of LAFCO 3070 by the Commission, in the staff's opinion, provides for:

- A. A permanent form of government to provide locally adequate levels of service;
- B. It is a form of government which proposes to combine three entities into a single multi-function government and detaching a government associated with another community. It provides a mechanism to expand its service options in the future under the provisions of the Community Services District law based upon the desires of the community, the financial wherewithal of the agency, and the review and determination of LAFCO; and,
- C. Approval of this proposal will put in place a form of government which can either remain as an alternative to formation of a new city or act as a conduit for transition to a new city at sometime in the future.

For all of these reasons and those identified in the reports, staff recommends approval of LAFCO 3070 by the Commission and that the matter be sent to the registered voters within its boundaries for a decision on the February 5, 2008 ballot.

However, there remains a single item requiring review and determination by the Commission – the transfer of the CIEDB Loan – which cannot be completed at this hearing. Therefore, staff will be recommending a continuance to the September 19, 2007 hearing for that consideration and the adoption of the Commission's resolution making determinations.

## **RECOMMENDATION**

For the reasons outlined above and in the prior deliberations on this matter by the Commission, staff recommends that the Commission indicate its intent to approve LAFCO 3070 by taking the following actions:

1. Indicate intent to approve LAFCO 3070 – Reorganization to include Formation of the Phelan Piñon Hills Community Services District, et al. as modified by LAFCO staff to include the dissolution of County Service Area 70 Improvement Zone P-4, to include approximately 81,920 acres (128 square miles) as shown on the map attached to this staff report, with the following determinations:
  - a. Pursuant to the requirements of Government Code section 61014, the Commission finds that the Phelan Piñon Hills CSD has sufficient revenues to perform the services as outlined in its application and to provide for a reasonable reserve for the next three years.
  - b. Pursuant to requirements of Government Code Section 56301, the Commission determines that existing agencies cannot provide the range and level of services contemplated to be provided by the Phelan Piñon Hills CSD in a more efficient and accountable manner.

And with the following terms and conditions:

**Condition No. 1.** The boundaries of this change or organization are approved as set forth in Exhibits “A”, “A-1”, “B”, “B-1”, “C”, “D”, and “E” attached;

**Condition No. 2.** The following distinctive short-form designation shall be used through this proceeding: LAFCO 3070;

**Condition No. 3.** The effective date of this reorganization shall be the date of issuance of the Certificate of Completion;

**Condition No. 4.** The Phelan Piñon Hills Community Services District shall be the successor agency and shall function under and carry out all authorized duties and responsibilities assigned to a community services district as outlined in Government Code Section 61000 et seq., Community Services District Law, and other applicable laws. Upon the Effective Date of this reorganization, the legal existence of County Service Area 9, County Service Area 56 Improvement Zone F-1, County Service Area 70 Improvement Zone L and County Service Area 70 Improvement Zone P-4 shall cease to exist, except as otherwise required by law, and the Phelan Piñon Hills Community Services District, as successor District, shall succeed to all the rights, duties, responsibilities, properties (both real and personal), contracts, equipment, assets, liabilities, obligations, functions, executory provisions, entitlements, permits and approvals of the extinguished agencies;

**Condition No. 5.** The Board of Directors of the Phelan Piñon Hills CSD shall consist of five (5) members, elected at-large, pursuant to the provisions of

Government Code Section 61020;

**Condition No. 6.** The Phelan Piñon Hills CSD shall be authorized the following functions and services as active powers:

**Water** -- Supply water for any beneficial use as outlined in the Municipal Water District Law of 1911 (commencing with Section 71000) of the Water Code (§61100(a)).

**Streetlighting** -- Acquire, construct, improve, maintain and operate streetlighting and landscaping on public property, public right-of-way, and public easements (§61100(g)).

**Recreation and Parks** -- Acquire, construct, improve, maintain, and operate recreation facilities, including, but not limited to, parks and open space, in the same manner as a recreation and park district formed pursuant to the Recreation and Park District Law (commencing with Section 5780) of the Public Resources Code (§61100f)).

**Condition No. 7.** If this proposal is approved by the electorate at the February 5, 2008 presidential primary election, the County Board of Supervisors, through its County Special District Department, shall continue to provide for the administration of services and functions performed by the dissolving and detaching entities for a transition period identified as commencing upon the effective date of the reorganization until June 30, 2008. Nothing in this condition precludes a future Board of Directors of the Phelan Piñon Hills CSD from contracting for an extended period of time for the provision of administration, maintenance, operation, billing, and etc. services through the County Special Districts Department.

As outlined in the Transition Plan presented by the County Special Districts Department, set forth in Exhibit "E", the Phelan Piñon Hills CSD Board of Directors shall be required to sign the Interim General Manager Agreement at its first regular meeting to allow for fulfillment of Government Code Section 61050 and setting forth the payment structure for services rendered. In addition, the Operation and Maintenance Agreement with the County Special Districts Department for the period from the effective date of the reorganization until June 30, 2008 shall be signed within ten (10) days following the first regular meeting of the Board of Directors of the Phelan Piñon Hills CSD to assure continuity of services and elimination of questions of liability or risk to the County for continued provision of the administration and operation of the services to the area;

**Condition No. 8.** The Phelan Piñon Hills CSD shall succeed to all water and capacity rights and interests of CSA 70 Improvement Zone L, whether wholly or partially owned or held by the district, and shall succeed to the priorities of use or rights of use of water or capacity rights in any public improvements or facilities or any other property, whether real or personal, to which CSA 70 Zone L is entitled to upon the effective date of this reorganization. The Successor District shall specifically succeed to all rights and interests held or claimed by CSA 70 Zone L under the Judgment entered (including all documents constituting the Physical

Solution, as from time to time existing) in City of Barstow, etc. et al. v. City of Adelanto, etc. et al., and Related Cross Actions, Riverside County Superior Court Case No. 208568 (the "Mojave Basin Area Adjudication"), including those from time to time set forth in Table B-1, to the Judgment.

The Successor District shall also specifically succeed to all rights and interests held or claimed by CSA 70 Zone L under all agreements and memoranda of understanding with the Department of the Interior, the Bureau of Land Management, the United States Geological Survey, the California Department of Fish and Game, the California Water Quality Control Board and the Regional Water Quality Control Board for the Lahontan Region, the California Department of Health Services, the Mojave Water Agency, the County of San Bernardino, the City of Adelanto, the City of Hesperia, the City of Victorville, the Town of Apple Valley, the Apple Valley Ranchos Water Company, the Southern California Logistics Airport Authority, the Victor Valley Wastewater Reclamation Authority, the Snowline Joint Unified School District, the High Desert Power Project (or any of its related entities), Southern California Edison, and any other public agency or private entity with which CSA 70 Zone L has an agreement or memorandum of understanding. The Successor District shall also assume all joint use flow agreements and maintenance agreements. [§56886(j) (r)];

**Condition No. 9.** The Phelan Piñon Hills CSD, as the successor district, shall accept all system facilities transferred from the dissolving or detaching agencies in "as is" condition without any payment or repair obligation from the assets of any of the dissolving or detaching agencies (Government Code Section 56886(h)). All material and incidental liabilities, including, but not limited to, accounts payables, contract obligations and customer deposits, held by the dissolving entities shall be transferred to the successor district upon the effective date of the reorganization (Government Code Section 56886(h)). All assets, including, but not limited to, cash reserves, buildings and other real property, water production equipment (pumps, storage tanks etc.), transmission lines and rights-of-way, rolling stock, tools, and office furniture, fixtures and equipment, all lands, buildings, real and personal property and appurtenances held by the dissolving entities shall be transferred to the successor district upon the effective date of the reorganization (Government Code Section 56886(h)). Additional requirements for transfer are defined below:

1. The Phelan Piñon Hills CSD shall receive a share of the pooled equipment and equipment reserve funds for the County Special Districts Department, Water and Sanitation Division, representing 17.2% of the values assigned as of July 13, 2007, representing a total value of \$403,980. The Board of Directors is entitled to receive this amount in equipment, in cash, or in a combination of equipment and cash subject to the following limitations:
  - a. If the method for receipt of the assigned value is determined by the Board of Directors to be received in cash only, said payments shall be spread over a three- to five-year time period subject to negotiations between the County Board of Supervisors and Board of Directors for the Successor District;

- b. If the method for receipt of the assigned value is determined by the Board of Directors to be received in a combination of cash and equipment, and the cash balance exceeds \$200,000, said cash payment shall be spread over a three-year period subject to negotiations with the County and Board of Directors; or
  - c. If the method for receipt of the assigned value is determined by the Board of Directors to be received in equipment only or a combination of cash and equipment and the cash balance is less than \$200,000 said payment shall occur as expeditiously as possible, but not later than 60-days following the determination by the Board of Directors.
2. The property owned by County Service Area 56 Improvement Zone F-1, identified as APN 3067-051-06, is a joint use facility including a fire station, community center and park. Ownership of said property shall be transferred to the Phelan Piñon Hills CSD upon the effective date of the reorganization with the stipulation that the fire station occupying a portion of the property shall be leased back to the County Consolidated Fire Agency for the sum of \$1.00 per year subject to a fifteen (15) year lease agreement to be entered into between the successor district and the County for the benefit of the County Consolidated Fire Agency (or District);

**Condition No. 10.** The fire functions, contracts, equipment, assets and liabilities currently a part of County Service Area 56 Improvement Zone F-1 are intended to be transferred to the County Consolidated Fire Protection District through consideration of LAFCO 3000 (County Fire Reorganization). If LAFCO 3000 is not completed upon the effective date of this reorganization, the fire functions, including property tax revenues, as stipulated in Condition Nos. 12 and 13 below, associated with CSA 56 and CSA 56 Improvement Zone F-1 shall be transferred temporarily to County Service Area 70 (fire administration) to allow for continued operation and protection of identified revenues. A condition of approval shall also be included in LAFCO 3000 identifying this situation;

**Condition No. 11.** All property tax revenues attributable to County Service Area 9 and County Service Area 70 Improvement Zone L, prior to calculations required by Section 96.1 of the Revenue and Taxation Code, including delinquent taxes, and any and all other collections or assets of the Districts to be dissolved, shall accrue and be transferred to the successor District, the Phelan Piñon Hills CSD, pursuant to the provisions of Government Code Section 56810;

**Condition No. 12.** Property tax revenues attributable to the park and recreation functions of County Service Area 56 Improvement Zone F-1, including delinquent taxes and any and all other collections or assets, shall be transferred to the successor District, the Phelan Piñon Hills CSD, pursuant to the provisions of Government Code Section 56810 subject to the following terms:

- 1. Fire protection revenues currently a part of the property tax allocation for County Service Area 56 Improvement Zone F-1, determined to be \$194,374

for Fiscal Year 06-07 shall be transferred to the County Consolidated Fire Protection District as a function of LAFCO 3000. However, if LAFCO 3000 is not completed upon the effective date of LAFCO 3070, the fire functions, including property tax revenues, associated with CSA 56 Improvement Zone F-1 shall be transferred temporarily to County Service Area 70 to allow for continued operation and protection of identified revenues. A condition of approval shall also be included in LAFCO 3000 identifying this situation.

2. Park and recreation revenues currently a part of the property tax allocation of County Service Area 56 Improvement Zone F-1 estimated to be \$42,668 for Fiscal Year 06-07 shall be increased by \$33,314 through a transfer of property tax revenues from County Service Area 56 under the provision of Section 99.02 of the Revenue and Taxation Code;

**Condition No. 13.** The property tax revenues attributable to County Service Area 56 within the area proposed to be detached as a function of this reorganization shall be allocated as follows pursuant to Government Code Section 56810:

1. Fire protection revenues currently a part of the property tax allocation of County Service Area 56, determined to be \$1,367,056 for Fiscal Year 06-07, shall be distributed as follows to the County Consolidated Fire Protection District as a function of the review of LAFCO 3000. However, if LAFCO 3000 is not completed upon the effective date of this reorganization, the fire functions, including property tax revenues, associated with CSA 56 within the reorganization shall be transferred temporarily to County Service Area 70 to allow for continued operation and protection of identified revenues. A condition of approval shall also be included in LAFCO 3000 identifying this situation.
2. Following completion of Condition No. 12 Item 2 outlined above, the balance of park and recreation revenues within the area of County Service Area 56 to be detached as a function of this reorganization, estimated to be \$25,944 for Fiscal Year 06-07, shall be transferred to the retained area of CSA 56 within Tax Rate Areas 101031 and 101033 through a transfer of property tax revenues under the provisions and processes provided in Section 99.02 of the Revenue and Taxation Code;

**Condition No. 14.** All previously authorized charges, fees, assessments, and/or taxes of County Service Area 70 Improvement Zone L, County Service Area 9, and County Service Area 56 Improvement Zone F-1 in effect upon the effective date of this reorganization shall be continued and assumed by the Phelan Piñon Hills CSD, as the successor agency, in the same manner as provided in the original authorization pursuant to the provisions of Government Code Section 56886(t) and as may be modified by Condition Nos. 11, 12 and 13 above;

**Condition No. 15.** Until duly revised by the Phelan Piñon Hills CSD, and unless otherwise expressly provided herein or legally required, all ordinances, resolutions, rules and regulations, policies, procedures, and practices existing on the effective

date of this reorganization shall govern the activities and affairs of the Successor District. The Board of Directors of the Phelan Piñon Hills CSD, the successor district, shall expeditiously review and ratify the ordinances, resolutions, policies, procedures and practices adopted hereby, making such revisions as it shall deem appropriate;

**Condition No. 16.** Upon the effective date of this reorganization, any funds currently deposited for the benefit of County Service Area 70 Improvement Zone L, County Service Area 9, and County Service Area 56 Improvement Zone F-1 which have been impressed with a public trust, use or purpose shall be transferred to the Phelan Piñon Hills CSD, as the successor agency, and the successor agency shall separately maintain such funds in accordance with the provisions of Government Code Section 57462;

**Condition No. 17.** Pursuant to the provisions of Government Code Section 56811, the provisional appropriation limit of the Phelan Piñon Hills CSD shall be set at \$1,203,876. The permanent appropriation limit shall be established at the first district election held following the first full fiscal year of operation and shall not be considered to be a change in the appropriation limit of the district pursuant to Article XIII B of the California Constitution;

**Condition No. 18.** All streetlights currently the responsibility of County Service Area 9 shall be transferred to the Phelan Piñon Hills CSD upon successful formation of the District. The County Special Districts Department shall prepare the appropriate documentation to transfer the lights; LAFCO staff shall verify the date, and forward the signed authorization form requesting Southern California Edison to transfer the specific lights to the Phelan Piñon Hills CSD accounts upon successful completion of LAFCO 3070.

**Condition No. 19.** Pursuant to the provisions of Government Code Section 56885.5(a)(4), the County Board of Supervisors, as the governing body of County Service Area 70 Improvement Zone L, County Service Area 9 and County Service Area 56 Improvement Zone F-1, is prohibited from taking the following actions unless an emergency situation exists as defined in Section 54956.5:

1. Approve any increase in compensation or benefits for members of the governing body, its officers, or the executive officer of the agency;
2. Appropriating, encumbering, expending or otherwise obligating, any revenues of the agencies beyond that provided in the current budget at the time the reorganization is approved by the Commission. The Commission identifies that the budget to be utilized in this condition shall be the final budget for Fiscal Year 2007-08 adopted by the County Board of Supervisors on June 26, 2007;

**Condition No. 20.** Pursuant to Government Code Section 56886.1, public utilities, as defined in Section 216 of the Public Utilities Code, have ninety (90) days following

the recording of the Certificate of Completion to make the necessary changes to impacted utility customer accounts;

**Condition No. 21.** The protest period for the reorganization under LAFCO 3070 shall be the statutory minimum of fifteen (15) calendar days.

**Condition No. 22.** The County of San Bernardino, applicant, shall indemnify, defend, and hold harmless the Commission from any legal expense, legal action, or judgment arising out of the commission's approval of this proposal, including any reimbursement of legal fees and costs incurred by the Commission.

2. Continue consideration to the September 19, 2007 hearing for a determination regarding the CIEDB Bank Loan Transfer, addition of conditions of approval related to the transfer of this obligation to the Phelan Pinion Hills CSD and adoption of the final Resolution of Approval setting forth the Commissions determinations, terms, and conditions.

KRM/

Attachments:

- 1 -- Maps – Vicinity, Location, and Proposal Maps for the Phelan Piñon Hills CSD, CSA 9, CSA 56, CSA 56 Improvement Zone F-1 and CSA 70 Improvement Zones L and G
- 2 -- [Application Including Feasibility Study](#) (8.7 MB)
- 3 -- [Supplemental Data from Special Districts Department Related to Expenses, and Personnel Allocations for Fiscal Year 2006-07](#)
- 4 -- [Letter from Jeff Rigney, dated July 12, 2007, Regarding Property Tax Transfer Process for CSA 56](#)
- 5 -- [Letter Dated April 13, 2007 Regarding Transfer of Fire Funding From Multi-Purpose Special Districts](#)
6. [Letter Dated July 19, 2007 from Tom Sutton, Director of Special Districts, Outlining Methodology for Distribution of Pooled Equipment and Pooled Reserve Funds](#)
- 7 -- [Transition Plan Presented by County Special Districts Department Including Exhibits for Interim General Manager Agreement, Maintenance and Operation Agreement and Prop. 40 Funding Maintenance Agreement](#)
- 8 -- [Letter Dated July 27, 2007 to CIEDB Submitting Materials for Consideration of Loan Transfer to the Phelan Piñon Hills CSD](#) (3 MB)